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Ms. Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, NW
Washington, DC 20554

Re: *Emergency Petition for Waiver of the Commission's Rules to Designate Michigan Access an Incumbent Local Exchange Carrier in Two Unserved Areas in Northeast Michigan* (CC Docket No. 96-45)

Nearly two years ago, Michigan Access, Inc. ("Michigan Access") submitted a petition to the Federal Communications Commission ("FCC" or "Commission") requesting that the Commission designate Michigan Access the incumbent local exchange carrier ("ILEC") in two unserved areas in Michigan.¹ As explained in its petition, Michigan Access's primary reason for seeking ILEC designation is to obtain telephone numbers in order to offer basic telephone service to these communities.² Michigan Access has been denied access to telephone numbers because the communities it seeks to serve are not "rate centers," and therefore not "exchanges," which are prerequisites to obtaining telephone numbers.³

Despite the urgency of Michigan Access's request, as of today, no action has been taken with respect to its application by either the Federal Commission ("FCC") or the Michigan Public Service Commission ("Michigan PSC"). Recently, the Commission expressed the view that the issue of choosing among competing carriers seeking ILEC status is "an issue more appropriately and typically handled at the state level."⁴ Yet, the Michigan Public Service Commission has declined to express a view in the matter, stating that such matters are within the exclusive purview of the FCC. The unfortunate consequence of such inaction by both agencies is that the residents of the Kirkland and Red Dog Exchanges – some of which are elderly and in poor health – remain without basic telephone service.

¹ See *In re Petition of Michigan Access, Inc., Emergency Petition for Waiver of the Commission's Rules to Designate Michigan Access as Incumbent Local Exchange Carrier in Two Unserved Areas in Northeast Michigan, Petition for Waivers of the Commission's Rules to Allow New Local Exchange Carrier to Participate in NECA Tariffs and Pools and Obtain Accelerated USF Support*, CC Docket No. 96-45 (filed Sept. 30., 2009) ("*Michigan Access Petition*").

² *Id.* at 1-2., 8-9.

³ See *id.* at 7.

⁴ See Letter from Chairman Julius Genachowski, FCC, to The Honorable Dan Benishek, U.S. House of Representatives (dated June 6, 2011).

Notwithstanding the perceived “complexity” of the legal, policy and apparently political issues surrounding Michigan Access’s petition, from a public policy perspective, this case is not difficult at all. Nor should it be. The most important facts, upon which the Commission could reach a decision in favor of Michigan Access include:

- Michigan Access is the dominant carrier in the areas immediately surrounding the two unserved areas it seeks to serve;
- At the request of the communities, and upon learning (through a visual, door-to-door, walking inspection) that several of the residents were elderly and in poor health, Michigan Access committed to offering telephone service to these areas;
- Michigan Access expended over half a million of its own funds to lay facilities and establish other services to offer these citizens basic telephone service;
- Michigan Access has already installed the necessary facilities, and currently possesses the in-house personnel, facilities, and resources to operate as a facilities-based carrier; the company is prepared to roll-out service to customers within the unserved territories immediately;
- Michigan Access undertook these costs out of a genuine desire to bring the benefits of basic telephone service to these customers;
- Michigan Access’s plans to offer service to these customers were interrupted and delayed only when the company was unable to obtain telephone numbers;
- Upon being informed by the Michigan PSC that the only way it could obtain telephone numbers was to obtain ILEC status, Michigan Access filed a petition with the FCC;
- Nearly two years after submitting its petition, however, neither the FCC nor the Michigan PSC has taken no action with respect to Michigan Access’s petition;
- Due to inaction by both the FCC and the Michigan PSC, Michigan Access cannot obtain access to the telephone numbers it needs to offer telephone services to several residents who need and want such service.

To further support its position that the facts of this case are not complex, Michigan Access takes an opportunity below to clarify the facts and to address certain mischaracterizations and misstatements in the record. In so doing, Michigan Access believes that it will become readily apparent that the public interest strongly supports a decision its favor.

**The Michigan Access Petition is not the “Same”
as the Allband and Osirus Petitions**

**The Compelling Facts in the Michigan Access Case
Overwhelmingly Support a Decision in its Favor**

Michigan Access disagrees with the Commission’s characterization of its petition as being “the same” as the petitions filed by Allband Communications Cooperative (“Allband”)⁵ and Osirus Communications, Inc. (“Osirus”).⁶ Michigan Access does not seek to serve the “same” communities as Allband and Osirus and its petition should not be viewed as “competing” with the petitions filed by these carriers. In this regard, Michigan Access notes that Allband seeks to serve a total of seven unserved areas, and Osirus seeks to offer service to eight.⁷ Michigan Access, by contrast, seeks ILEC status for only two unserved communities. Given the vastness of the land area in Northeast Michigan, it is clear that Michigan Access seeks ILEC authority for a significantly much smaller territory than either Allband or Osirus.

And more importantly, in contrast to the Allband and Osirus petitions, Michigan Access is highly-regarded and extremely well-known within the two areas it seeks to serve. As previously noted in this record, in addition to providing telephone and Internet access services, Michigan Access and M33 Access have been beneficial to Northeast Michigan in many other ways:

Several critical care facilities and agencies rely on [Michigan Access’s] services, including a number of regional police and sheriffs' departments, 911 emergency call centers, medical care facilities, fire departments and dozens of public and private schools, and a community college. As of 2006, one community college in the region had attributed over \$548,000 in savings directly to its relationship with M33 Access. Given its importance to the area, M33 Access is listed as an ‘essential service’ by the Ogemaw County Government. And, in Roscommon County, Mr. Wilson was named “Citizen of the Year,” in recognition of his service to the community. ...Beyond providing telephone and Internet connectivity, Michigan Access and M33 Access have been beneficial to Northeast Michigan in many other ways. At least one publication noted that M33 Access “opened the floodgates for the kind of economic growth the region has struggled for decades to achieve.”⁸

The two areas Michigan Access seeks to serve are immediately adjacent to the company’s current service area, and therefore, represent a logical and reasonable expansion of the company’s current service footprint.

⁵ *In re Petition of Allband Communications Cooperative for Waiver of Sections 69.2(bb) and 69.601 of the Commission’s Rules to Allow New Local Exchange Carrier to Participate in NECA Tariffs and Pools*, CC Docket No. 96-45 (filed Sept. 6, 2005) (“*Allband Petition*”).

⁶ *In re Osirus Communications, Inc. Petition for Waiver of Commission’s Rules to Participate in the NECA Pools and Tariffs and to Obtain Accelerated USF Support*, CC Docket No. 96-45 (filed Oct. 2, 2007) (“*Osirus Petition*”).

⁷ *See Comments of Allband Communications Cooperative in Opposition to Petition for Waivers and Allband Request for Clarification*, CC Docket No. 96-45 (filed Jan. 3, 2008), at 9; *Osirus Petition* at 2.

⁸ *See* Letter from Audrey Glenn, Counsel to Michigan Access, Inc., to Marlene H. Dortch, Secretary, FCC, CC Docket No. 96-45 (dated Sept. 16, 2009), at 5.

To Michigan Access's knowledge and belief, neither Allband nor Osirus currently offer service anywhere close to the two areas Michigan Access now seeks to serve. It, therefore, is patently unfair to compare Michigan Access — the only service provider the residents of these communities have ever known — to two companies that are basically unknown “strangers” to the residents of these communities.

Delaying a Decision Until After the Universal Service and Intercarrier Compensation Reform Proceedings is Contrary to the Public Interest

Michigan Access further disagrees that the issues involved in this case are so complex that a decision must wait until after a decision in the universal service and intercarrier compensation reform proceedings. Perhaps the perceived “complexity” of the issues involved in this case is a concern about the actual cost of serving these high-cost areas, and the potential effect on the universal service fund. While it is a fact that the Kirtland and Red Dog Exchange are “high-cost” areas, Michigan Access disagrees with the conclusion that designating Michigan Access as the ILEC for these areas will necessarily have a significant impact on the USF.

In its original petition, Michigan Access requested certain waivers, which would have enabled the company to obtain accelerated USF support. Given the length of time it has taken the FCC to decide this matter, and the suggestion the issues involved are “complex,” Michigan Access is concerned that, by requesting USF support, the Commission unfairly and incorrectly linked a decision on Michigan Access's ILEC petition to a decision in the much broader and more complicated aforementioned reform proceedings. The Commission's emphasis on USF support is misplaced because it incorrectly presumes that Michigan Access's primary purpose in becoming the ILEC for these areas is to gain access to universal service funds. Contrary to the FCC's position, however, Michigan Access's primary purpose in seeking ILEC status is to obtain telephone numbers; not to gain access to USF support. Any other conclusion with respect to the company's intent and motivation is misplaced, and ignores the fact that the company has already invested over half a million dollars of its own funds — not USF money — to bring the benefits of basic telephone service to customers who desperately need and want such service.

Michigan Access is committed to serving the residents of these unserved areas irrespective of access to USF funds. In fact, the company took steps to serve these customers in the absence of any expectation or assurance that any USF money or commitments would be forthcoming. The delay in serving the Kirtland and Red Dog Exchanges is due solely to the company's inability to obtain telephone numbers, which demonstrates the company's commitment to these areas and its intent to move forward with its plans notwithstanding any access to USF funds.

The Michigan Access Petition is a “Model” for USF Reform
A Decision in its Favor Serves the Public Interest

The facts of this case overwhelmingly demonstrate Michigan Access’s true intent in requesting ILEC status is to obtain telephone numbers. Although the Kirtland and Red Dog Exchange are, in fact, “high-cost” areas, to remove any doubt as to whether the company’s designation as an ILEC will have a significant impact on the federal USF, the company is willing to forego a substantial portion of any USF funds to which it would otherwise be entitled.

Despite the projected costs of serving these areas, if Michigan Access is designated the ILEC for these exchanges, and therefore obtains access to universal service support, the company proposes to place a cap on its annual USF support. Specifically, Michigan Access hereby proposes to cap its annual USF support to \$3,000.00 per loop. Given the actual cost of serving these areas, this cap represents far less than the company’s actual costs to serve these areas. Yet, Michigan Access will willingly agree to such a cap especially if it will expedite an FCC decision in this matter, and thereby enable the company to obtain telephone numbers.

In closing, Michigan Access urges the Commission to issue immediately a decision on its petition for ILEC designation. Michigan Access urges the Commission to reach a decision on its petition immediately, and not to delay action in this case until a decision is reached in the broader and more complicated universal service and intercarrier compensation proceedings. To the extent that the Commission is concerned that a decision in this case may pre-judge or limit its ability to reach decision on those broader proceedings, Michigan Access submits that any such impact would be a positive step forward for USF reform. Unlike other carriers, whose entry into unserved communities is predicated upon receipt of USF support, Michigan Access has demonstrated an unwavering commitment and intent to serve these areas by investing its own money, time, and resources. The company has even proposed to cap its USF support to an amount substantially less than its projected costs. On the basis of these and other facts in the record, Michigan Access has presented an ideal model for USF reform.

There is no valid public policy reason why a decision in this case should be further delayed. To the contrary, Michigan Access has overwhelmingly demonstrated that a decision in its favor would serve the public interest by allowing the company to offer telephone service to customers who have been denied such service for nearly fifty years. Accordingly, Michigan Access urges the FCC to reach a decision in its favor immediately.

Respectfully submitted,

Audrey Glenn
Counsel to Michigan Access, Inc.